

REMARKS:

Claims 1-37 remain in the application for consideration.

Reconsideration and withdrawal of the outstanding rejections is respectfully requested in light of the above amendments and following remarks.

Claims 1-11, 13-21, 23-34, 36, and 37:

Claims 1-11, 13-21, 23-34, 36, and 37 stand rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 5,991,739 to Cupps, et al. ("Cupps") in view of U.S. Patent No. 4,971,406 to Hanson ("Hanson") and U.S. Patent No. 5,895,454 to Harrington ("Harrington") and U.S. Patent No. 5,970,473 to Gerszberg, et al. ("Gerszberg").

This rejection is respectfully traversed.

Specifically, with respect to claim 1 (as well as claims 2-11, which depend from claim 1), this claim recites a system for brokering food order transactions comprising one or more databases. Claim 1 has been amended to further recite that one or more of the databases contain "delivery information associated with each of a plurality of buyers *including a maximum delivery time preference of at least one of the plurality of buyers.*" Cupps, Hanson, Harrington, and Gerszberg each fails to disclose or suggest a database that includes such delivery time preference information. Therefore, since each of Cupps, Hanson, Harrington, and Gerszberg fails to disclose or suggest all of the limitations of claim 1 as amended, the proposed combination of Cupps, Hanson, Harrington, and Gerszberg likewise fails to disclose or suggest all of the limitations of amended claim 1. Thus, the proposed combination of Cupps, Hanson, Harrington, and Gerszberg cannot render obvious claim 1, or claims 2-11 depending from claim 1.

Attention is also drawn to claim 8, which depends from claim 1. Claim 8 has been amended to recite "the broker is further operable to communicate to the buyer a suggested alternative particular food item...if the substantially real-time delivery time information...exceeds a threshold *corresponding to the maximum delivery time*

preference of the buyer." The concept of suggesting an alternative if real-time delivery time information exceeds a threshold corresponding to a stored maximum delivery time preference of a buyer is not disclosed or suggested by the proposed combination of Cupps, Hanson, Harrington, and Gerszberg. For at least this additional reason, the proposed combination of Cupps, Hanson, Harrington, and Gerszberg cannot render obvious claim 8.

With respect to independent claims 13, 23, and 24, each of these claims has been amended to include limitations similar to those discussed above in connection with claim 1. Therefore, the comments presented above in connection with claim 1 apply equally to claims 13, 23, and 24, as well as claims 14-21, 36, and 37 depending from claim 13, and claims 25-34 depending from claim 24. Thus, for at least the reasons discussed above in connection with claim 1, the proposed combination of Cupps, Hanson, Harrington, and Gerszberg cannot render obvious claims 13-21, 23-34, 36, and 37.

Also, claims 18 and 31 have been amended to include limitations similar to those discussed above in connection with claim 8. Therefore, the comments presented above in connection with claim 8 apply equally to claims 18 and 31. Thus, for at least the additional reason discussed above in connection with claim 8, the proposed combination of Cupps, Hanson, Harrington, and Gerszberg cannot render obvious claims 18 and 31.

For the reasons set forth herein, the Applicants submit that claims 1-11, 13-21, 23-34, 36, and 37, as amended, are not rendered obvious by Cupps in view of Hanson, Harrington, and Gerszberg. The Applicants further submit that Claims 1-11, 13-21, 23-34, 36, and 37, as amended, are in condition for allowance. Therefore, the Applicants respectfully request that Claims 1-11, 13-21, 23-34, 36, and 37, as hereby amended, be allowed.

Claims 12, 22, and 35:

Claims 12, 22, and 35 stand rejected under 35 U.S.C. § 103(a) over Cupps in view of Hanson and Harrington, and further in view of Cotter.

Claim 12 depends from independent claim 1, claim 22 depends from independent claim 13, and claim 35 depends from independent claim 24. As discussed above, claims 1, 13, and 35 as amended herein are considered patentable over the proposed combination of Cupps, Hanson, Harrington, Gerszberg at least because this proposed combination fails to disclose or suggest one or more of the databases contain “delivery information associated with each of a plurality of buyers *including a maximum delivery time preference of at least one of the plurality of buyers.*” Cotter likewise fails to disclose or suggest this limitation, so the combined teachings of Cupps, Hanson, Harrington, and Cotter would still fail to disclose or suggest all of the limitations of claims 1, 13, and 24. Since claims 12, 22, and 35 depend from claims 1, 13, and 24, respectively, the proposed combination of Cupps, Hanson, Harrington, and Cotter would likewise fail to disclose or suggest all the limitations of claims 12, 22, and 35 as well. Since the proposed combination of Cupps, Hanson, Harrington, and Cotter fails to disclose or suggest all of the limitations of claims 12, 22, and 35, the proposed combination cannot render obvious claims 12, 22, and 35.

For the reasons set forth herein, the Applicants submit that claims 12, 22, and 35 are not rendered obvious by Cupps in view of Hanson and Harrington, and further in view of Cotter. The Applicants further submit that Claims 12, 22, and 35 are in condition for allowance. Therefore, the Applicants respectfully request that Claims 12, 22, and 35 be allowed.

CONCLUSION:

In view of the foregoing amendments and remarks, this application is considered to be in condition for allowance, and early reconsideration and a Notice of Allowance are earnestly solicited.

The undersigned hereby authorizes the Director to charge any fees that may be required, or credit any overpayments, to **Deposit Account No. 500777**. If an extension of time is necessary for allowing the Amendment to be timely filed, this document is to be construed as also constituting a Petition for Extension of Time Under 37 C.F.R. § 1.136(a) to the extent necessary. Any fee required for such Petition for Extension of Time should be charged to **Deposit Account No. 500777**.

Please link this application to Customer No. 53184 so that its status may be checked via the PAIR System.

Respectfully submitted,

3 AUGUST 2005
Date


James E. Walton, Registration No. 47,245
Daren C. Davis, Registration No. 38,425
Brian E. Harris, Registration No. 48,383
Michael Alford, Registration No. 48,707
Law Offices of James E. Walton, P.L.L.C.
1169 N. Burleson Blvd., Suite 107-328
Burleson, Texas 76028
(817) 447-9955 (voice)
(817) 447-9954 (facsimile)
jim@waltonpllc.com (e-mail)

CUSTOMER NO. 53184
ATTORNEYS AND AGENTS FOR APPLICANT